Summary of Annual Report of The Ombudsman, Hong Kong

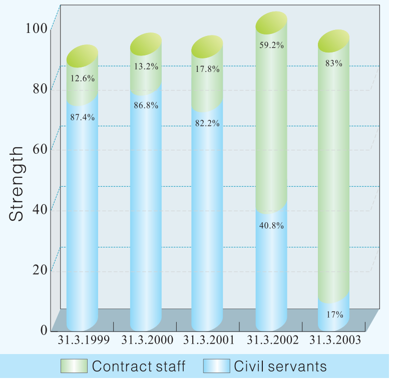
June 2003

ADMINISTRATION

Since delinking from Government systems, procedures and practices on 19 December 2001, the Office of The Ombudsman (the Office), has established its own administrative systems and steadily reduced its reliance on services provided by Government departments.

By the end of 2002/03, 83% of the Office's total workforce were contract staff appointed under The Ombudsman Ordinance: they are not part of the civil service. The remaining civil servants, on loan from Government, will be completely phased out in 2003/04.

Fig. 1 Contract staff in the Office



To upgrade the expertise of our staff, especially, new recruits, we have drawn up a training strategy which includes induction for new entrants, refresher on recurrent subjects and special sessions for sharing experience on matters such as aspects of the law and requisite skills. Training is our important tool for building up a competent team committed to contributing towards fair, open, transparent and accountable public administration.

AUTHORITY AND RESTRICTIONS

Appointed by the Chief Executive of the Hong Kong Special Administrative Region Government, The Ombudsman has statutory authority to operate with complete independence in investigating maladministration by Government and public organisations in Schedule 1 to The Ombudsman Ordinance. The reorganisation of the Government Secretariat (a Schedule 1 organisation) under the Accountability System has not affected the jurisdiction of The Ombudsman.

Although The Ombudsman has wide investigative powers, the law specifies some restrictions on matters for investigation, such as out-of-time, anonymous or extraterritorial complaints, and matters for which statutory rights of appeal or legal remedies exist. The Ombudsman takes a liberal approach and "screens in" all points that are administrative in nature. To maximise the use of resources, The Ombudsman may decide not to pursue any complaint which is trivial, frivolous, vexatious or not made in good faith. This discretionary power can prevent misuse of The Ombudsman system.

The Ombudsman's decision on a case is final. Anyone not satisfied with the decision may apply for review by the Office or seek judicial review by the Court.

DIRECT INVESTIGATION

Introduced in 1994, direct investigations address issues of community concern and systemic problems. Over the years, through this function, we have helped improve the quality of public administration and promote accountability. We identify areas for direct investigations through regular review of topical issues, public expectations on Government services and repeated complaints to the Office. We aim to help Government to deliver more efficient and effective services to our discerning and ever more demanding community.

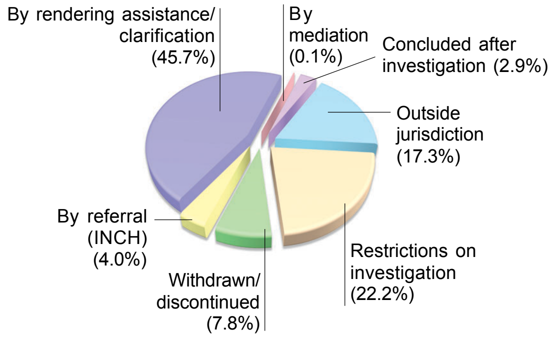
This year, we completed six direct investigations. Two others are underway.

COMPLAINT HANDLING

Complaints may be lodged by post, in person, by telephone, by fax or email. We conduct preliminary inquiries for relevant information before deciding whether a complaint should be resolved by alternative dispute resolution (ADR) or by full investigation.

For relatively simple and straightforward complaints, we adopt the less formal ADR methods: Internal Complaint Handling Programme (INCH), Rendering Assistance / Clarification (RAC) and Mediation. Cases which are complex or involve gross injustice and serious maladministration are dealt with by full investigation, which involves extensive inquiries and evidence collection.

Fig. 2 Classification of complaints concluded in 2002/03



Caseload and Challenges

In 2002/03, we registered the highest records for the past four years as follows:

- 14,298 inquiries received;
- 4,382 complaints received; and
- 4,370 complaints concluded.

Despite the heavier caseload and some highly complex cases, we managed to complete over 97% of the complaint cases within our performance pledges. To cope with occasional upsurge of cases, we engaged temporary case officers with extensive experience in public administration to supplement full-time investigators.

At times, organisations and complainants challenge our decisions and actions. Our decision to investigate or not is often a matter of contention. In the course of inquiry, some organisations may need some persuasion to provide relevant information despite our statutory right of access to such information.

Sometimes complainants request review of their cases. On the basis of new evidence and fresh points, we review our decisions and endeavour to address all points of contention in our replies. This year, we received 280 requests for review from complainants.

Fig. 3 Requests for review from complainants

Reason / Result	New evidence		New perspective		Outside jurisdiction	Total
	Yes	No	Yes	No		
Decision varied	3	-	2	-	-	5
Decision upheld	-	234	-	-	41	275
						280

We see every challenge as a healthy reminder to sharpen our vigilance and to enhance our professionalism.

Fruits of Investigation

Redressing grievances and improving public services are our main objectives for making recommendations after investigation. During the year, we made 173 recommendations in our full investigation of 124 complaints and 72 recommendations in six direct investigations. Over 95% of these recommendations have been accepted by the organisations concerned.

Public Education and External Relations

In 2002/03, we mounted a diversified multi-media programme of public information and education, which included broadcasting on TV and radio, roving exhibitions, advertising on buses and information panels in railway stations and carriages.

In August 2002, we presented The Ombudsman Awards to the Leisure and Cultural Services Department, Immigration Department and Social Welfare Department in recognition of their positive and exemplary efforts in complaint management. Twenty-three public officers from 12 organisations were also awarded for attaining a good standard of customer service or improving the quality of public services.

Fig. 4 The Ombudsman Awards presentation ceremony

In the sphere of institutional liaison, The Ombudsman was elected Secretary to the International Ombudsman Institute in October 2002. She also attended the 7th Asian Ombudsman Association meeting in Beijing and 20th Australasian and Pacific Ombudsman Conference in May and November 2002 respectively.

Under our exchange programme with the China Supervision Institute, we sent a delegation to the Mainland in May 2002 and the Institute visited Hong Kong in December 2002. The year also saw a sharp increase of visitors from overseas Ombudsman institutions and the Ministry of Supervision of China. We welcome such contacts and learn from these exchanges.

Table 1 CASELOAD

	Reporting years#			
	1999-2000	2000-01	2001-02 (10½ months)	2002-03
(A) Enquiries received	**9,323**	**11,821**	**12,900**	**14,298**
(B) Complaints received	**3,101**	**3,709**	**3,736**	**4,382**
(C) Complaints brought forward	**891**	**581**	**814**	**760**
(D) Complaints for processing = (B) + (C)	**3,992**	**4,290**	**4,550**	**5,142**
(E) Complaints concluded	**3,411**	**3,476**	**3,790**	**4,370**
By referral to complainee departments/ organisations for replies (INCH)	**467**	**364**	**353**	**176**
By rendering assistance/clarification (RAC)	**969**	**700**	**1,214**	**1,996**
By mediation	**10**	**29**	**19**	**6**
By investigation	**194**	**161**	**331**	**124**
- Withdrawn/Discontinued	11	-	6	2
- Substantiated	22	28	18	15
- Partially substantiated	100	41	263	39
- Unsubstantiated	61	80	42	68
- Incapable of determination	-	12	2	0
Complaints screened out	**1,417**	**1,859**	**1,563**	**1,729**
- Restrictions on investigation	592	795	685	971
- Outside jurisdiction	825	1,064	878	758
Complaints withdrawn/discontinued	**354**	**363**	**310**	**339**
(F) Percentage of complaints concluded = (E) ÷ (D)	**85%**	**81%**	**83%**	**85%**
(G) Total cases carried forward = (D) - (E)	**581**	**814**	**760**	**772**
(H) Number of direct investigations completed	**3**	**5**	**4**	**6**

\# Period of Reporting Years
99/00 : 16.5.99 - 15.5.00 00/01 : 16.5.00 - 15.5.01 01/02 : 16.5.01 - 31.3.02 02/03 : 1.4.02 - 31.3.03
From 2001/02, the reporting year ends on 31 March to coincide with the end of financial year.

Table 2 ENQUIRIES / COMPLAINTS RECEIVED